

(1) Certifies that it did not cause the vacancy by violating the lease, the PRAC, or any applicable law;

(2) Notified HUD of the vacancy or prospective vacancy and the reasons for the vacancy upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 891.400(a) (2) and (3) and § 891.445(b) (2) and (3); and

(4) For any vacancy resulting from the Owner's eviction of an eligible household, certifies that it has complied with § 891.430.

(d) *Prohibition of double compensation for vacancies.* If the Owner collects payments for vacancies from other sources (tenant payment, security deposits, payments under § 891.435(c), or governmental payments under other programs), the Owner shall not be entitled to collect vacancy payments to the extent these collections from other sources plus the vacancy payment exceed the approved per unit operating cost.

#### § 891.450 HUD review.

HUD shall conduct periodic on-site management reviews of the Owner's compliance with the requirements of this part.

### Subpart E—Loans for Housing for the Elderly and Handicapped

#### § 891.500 Purpose and policy.

(a) *Purpose.* The program under subpart E of this part provides direct Federal loans under section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) for housing projects serving elderly or handicapped families and individuals. The housing projects shall provide the necessary services for the occupants which may include, but are not limited to: Health, continuing education, welfare, informational, recreational, homemaking, meal and nutritional services, counseling, and referral services, as well as transportation where necessary to facilitate access to these services.

(b) *General policy.* A loan made under subpart E of this part shall be used to finance the construction or the substantial rehabilitation of projects for elderly or handicapped families, or for

the acquisition with or without moderate rehabilitation of existing housing and related facilities for group homes for nonelderly handicapped individuals.

(c) *Applicability.* Subpart E of this part applies to all fund reservations made before October 1, 1990, except for loans not initially closed that were converted to capital advances. Specifically, § 891.520 through 891.650 of subpart E apply to projects for elderly or handicapped families that received reservations under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and housing assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*). Sections 891.655 through 891.790 of subpart E apply to projects for nonelderly handicapped families receiving reservations under section 202 and project assistance payments under section 202(h) of the Housing Act of 1959.

#### § 891.505 Definitions.

For the purposes of this subpart E:

*Act* means section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q).

*Borrower* means a private nonprofit corporation or a nonprofit consumer cooperative that may be established by the Sponsor, which will obtain a Section 202 loan and execute a mortgage in connection therewith as the legal owner of the project. "*Borrower*" does not mean a public body or the instrumentality of any public body. The purposes of the Borrower must include the promotion of the welfare of elderly and/or handicapped families. No part of the net earnings of the Borrower may inure to the benefit of any private shareholder, contributor, or individual, and the Borrower may not be controlled by or under the direction of persons or firms seeking to derive profit or gain therefrom. Because of the nonprofit nature of the Section 202 program, no officer or director, or trustee, member, stockholder or authorized representative of the Borrower is permitted to have any financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management,